



**US Army Corps
of Engineers**
Louisville District ®

Public Notice

Public Notice No.
LRL-2014-299-b-mad

Open Date:
26 Aug 2016

Close Date:
26 Sep 2016

Please address all comments and inquiries to:
U.S. Army Corps of Engineers, Louisville District
ATTN: Mr. Matt Dennis, CELRL-OPF-S, Rm 752
P.O. Box 59
Louisville, Kentucky 40201-0059

Phone: 502-315-6689

This notice announces an application submitted for a Department of the Army (DA) Permit, subject to Section 404 of the Clean Water Act:

APPLICANT: Browning Development Solutions
 P.O. Box 2725
 Brentwood, TN 37024

AGENT: Redwing Ecological Services, Inc.
 1139 South Fourth Street
 Louisville, KY 40203

LOCATION: Paducah, McCracken County, KY

 Latitude: 37.0753
 Longitude: -88.68081
 7.5 Minute Quad: Paducah West

PURPOSE: Commercial development involving construction of
 retail space and associated parking lot and
 infrastructure.

DESCRIPTION OF WORK: The applicant proposes to construct a retail building, parking area, detention basin, and associated infrastructure on a 19-acre project site. An application for commercial development at this site was previously reviewed, but was withdrawn due to concerns regarding the proposed quantity of fill in the floodplain. The proposed project was originally put on Public Notice from December 11, 2014 to January 12, 2015. To address these concerns, the project was redesigned to reduce the fill in the floodplain and the size of the overall development. Modification to the site development plan include reduction of the building footprint from two buildings to one building, adjustment of the building location on site, reduction of the parking lot footprint, and reconfiguration of the storm water detention basins. Construction would result in the filling of a portion of one intermittent stream totaling 955 linear feet (0.077 acre), one ephemeral stream totaling 140 linear feet (0.003 acre), and three palustrine forested (PFO) wetlands totaling 0.676 acre.

AVOIDANCE, MINIMIZATION, AND MITIGATION MEASURES: There are no project layouts on the property that would both be of sufficient size and do not result in impacts to jurisdictional streams and wetlands. Impacts to the approximately 500 linear feet of a perennial stream, Perkins Creek, were avoided by eliminating proposals to develop the eastern portion of the site. The redesign of the site would result in slightly more stream and wetland impacts from the original proposal. The redesign was necessary due to concerns raised about the proposed quantity of fill within the Perkins Creek floodplain. In addition, the City of Paducah expressed concerns about having too much detention area in the floodplain. To address the various floodplain concerns, the building and parking lot were moved to the northwest so that there would be less fill in the floodplain. As a result, a proposed detention basin along the west side of the building had to be removed, and a new larger basin was designed to capture the flows of the proposed development. This modification in the design required the proposed detention area to be moved to the area behind the proposed building, resulting in an increase in five linear feet of impact to the intermittent stream, and 0.002 acre of PFO wetland.

The applicant proposes to mitigate for unavoidable impacts to jurisdictional wetlands through the purchase of credits at the West Kentucky Wetwoods Mitigation Bank. Unavoidable impacts to jurisdictional streams would be mitigated through an in-lieu fee payment to the Kentucky Fish and Wildlife Service Stream and Wetland Mitigation Fund.

It is noted that this proposed mitigation plan is open to comment and subject to change. The Corps will make a determination of appropriate mitigation, upon review of all submitted information.

REVIEW PROCEDURES: A DA Permit cannot be issued if any legally required Federal, State, or local authorization or certification is denied. In order to comply with Section 401 of the Clean Water Act, the applicant has received an individual water quality certification #WQC2014-077-7M on July 11, 2016 from the Kentucky Energy and Environment Cabinet Division of Water (KDOW).

Copies of this notice are sent to the appropriate Federal and State Fish and Wildlife Agencies. Their views and comments are solicited in accordance with the Fish and Wildlife Coordination Act of 1956. During review of the previous permit application, the applicant entered into Memorandum of Agreement No. 2015-B-0025IBCF on December 4, 2014, to mitigate for proposed impacts to *Myotis sodalis* (Indiana bat) summer roosting habitat. Based on available information, the proposed activity will not destroy or endanger any Federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act, and therefore, initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

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Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. A request for a public hearing must state the specific interest which might be damaged by issuance of the DA Permit.

The National Register of Historic Places has been examined, and it has been determined that there are no properties currently listed on the Register which would be directly affected by the proposed work. A Phase I cultural resource survey was conducted on the property on August 25, 2014. Based on the review of the survey the Corps concurred with the consultant's recommendation for clearance. In accordance with 36 C.F.R. §800.4(d)(1); 33 C.F.R. §325, Appendix C §7(b), and the Interim Guidance issued by the Corps of Engineers on April 25, 2005, no historic properties would be affected by the proposed undertaking. The Kentucky State Historic Preservation Officer concurred with this determination in a January 21, 2015 letter. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archaeological, scientific, prehistorical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetic values, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production, and in general, the needs and welfare of the public. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines (40 CFR Part 230) promulgated by the Administrator, United States Environmental Protection Agency, under authority of Section 404(b) of the CWA.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. It is presumed that all interested parties and agencies will wish to respond; therefore, a lack of response will be interpreted as meaning that there is no objection to the proposed project. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to

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assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Written statements received in this office on or before the closing date will become a part of the official record and will be considered in the determination on this permit request. Any objections which are received during this period will be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. A permit will be granted unless its issuance is found to be contrary to the public interest.

Information pertaining to this application is available for public examination during normal business hours upon prior request. Drawings are available on Louisville District's Internet site at <http://www.lrl.usace.army.mil/Missions/Regulatory.aspx>. All comments regarding this proposal should be addressed to Mr. Matt Dennis, CELRL-OPF-S at the address noted above and should refer to the Public Notice Number LRL-2014-299-b-mad.

If you desire to submit your comments by email, you must comply with the following:

a) In the subject line of your email, type in **ONLY** the Public Notice ID No. LRL-2014-299-b-mad.

Example:

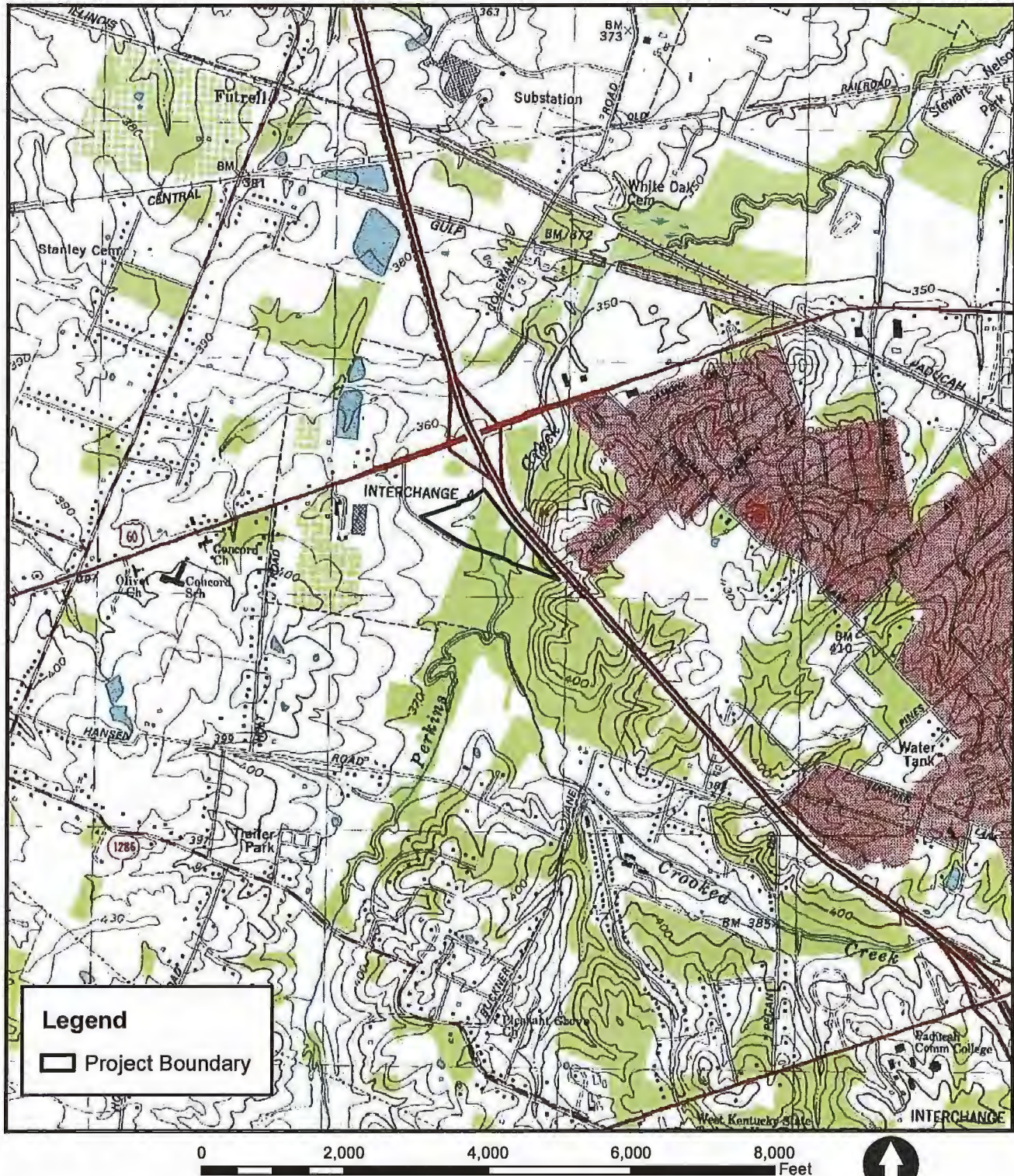
Subject: LRL-2014-299-b-mad

b) Provide your physical mailing address and telephone number.

c) Send your email to: lrl.regulatorypubliccomment@usace.army.mil.

d) If you are sending attachments greater than 1 Mb in size with your email, you must send a hard copy (CD or paper) to the Corps' physical address as well.

Source: USGS 7.5-minute Topographic Map - Paducah West, Kentucky Quadrangle.



DRURYSOUTH PROPERTY
MCCRACKEN COUNTY, KENTUCKY



SITE LOCATION MAP

REVISED DATE: 9/26/2014 DRAWN BY: LMB

FIGURE 1

Source: Imagery - Source: Esri, DigitalGlobe, GeoEye, i-geo, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Geomatics, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community (2011); Transportation - Copyright© 2011 Esri, DeLorme, NAVTEQ, TomTom.

